

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

TIMOTHY BURNS

PETITIONER

vs.

CIVIL ACTION No.: 3:17-CV-180-HTW-RHW

SUPERINTENDENT J. BANKS

RESPONDENT

ORDER

BEFORE THIS COURT is the Report and Recommendation of United States Magistrate Judge Robert H. Walker. [**Docket no. 12**]. In his Report and Recommendation, filed on October 10, 2019, Magistrate Judge Walker recommended that the petitioner's Petition for Writ of Habeas Corpus [**Docket no. 1**] be DISMISSED because he already had litigated the issues in his petition in the state courts of the State of Mississippi. Magistrate Judge Walker directed the *pro se* petitioner to file any objections within fourteen (14) days. The petitioner filed his objection to the Report and Recommendation on October 28, 2019, alleging various misconduct on the part of his trial counsel, but without any factual or legal support.

Based upon the findings and recommendation contained in the Report and Recommendation [**Docket no. 12**], this court finds it well-taken. Magistrate Judge Walker carefully examined petitioner's entire Petition, identified the operative issues and cogent facts and crafted a well-versed Report and Recommendation, which anticipated and thwarted all objections raised by petitioner. Therefore, this court hereby ADOPTS the Report and Recommendation of the Magistrate Judge as the order of this court.

This order, commensurately, hereby **DISMISSES** this lawsuit **WITHOUT PREJUDICE**. The parties are to bear their own costs.

A final order adverse to the petitioner having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a state court or a proceeding pursuant to 28 U.S.C. § 2241, the court, considering the record in the case and the requirements of 28 U.S.C. § 2253, Rule 22(b) of the Federal Rules of Appellate Procedure, and Rule 11(a) of the Rules Governing Section 2241 Cases in the United States District Courts, hereby finds that:

A Certificate of Appealability should not issue. The applicant has failed to make a substantial showing of the denial of a constitutional right.

SO ORDERED AND ADJUDGED this the 17th day of July, 2020.

s/ HENRY T. WINGATE
UNITED STATES DISTRICT COURT JUDGE